Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	EB Docket No. 04-296
Review of the Emergency Alert System	)	

AT&T'S REPLY COMMENTS

In its initial comments in this proceeding, AT&T described some of the technical characteristics that distinguish its Project Lightspeed deployment and its IP video service from "cable networks" and "cable service" as those terms are defined in Title VI.[1] Despite these differences, AT&T committed, as a provider of IP video services, to participate in the EAS, even though Title VI and the Commission's rules do not require such participation by wireline providers of video service who are not cable operators.[2] As a matter of public policy, AT&T fully supports the critical role the EAS plays in providing vital public safety information.

In its comments, the National Cable and Telecommunications Association ("NCTA") made the sweeping statement that "telephone companies providing video programming to subscribers appear to be cable operators as defined by Title VI of the Communications Act."[3] NCTA relies on two assumptions in support of its claim. First, NCTA asserts that if a telephone company provides "video by any means other than radio, or as a common carrier, or open video system provider, they are subject to the provisions of Title VI as cable operators."[4] Second,

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[1] *See AT&T's Comments* at 2-4.

[2] *Id.* at 4-6.

[3] *NCTA Comments* at 8.

[4] *Id.* at 8-9.

NCTA asserts that AT&T's IP video service is "predominantly a one-way transmission of 'video programming' and therefore is a 'cable service.'"[5] Both assertions are incorrect.

NCTA's contention that § 651 of the Act requires that telco video entrants be classified for regulatory purposes as common carriers, OVS providers, radio operators, or cable operators is inconsistent with the actual language of that section. As AT&T has indicated in previous submissions, § 651 provides only that if a telco does not provide video as a common carrier, as an OVS provider, or using radio communications, it will be "subject to the requirements" of Title VI.[6] Simply put, being subject to the requirements of Title VI is not the same as being a cable operator, because Title VI contains provisions that apply to video programming distributors other than cable operators, *i.e.,* multichannel video programming distributors ("MVPDs"). AT&T is an MVPD, and, pursuant to § 651, is subject to all of the provisions in Title VI that apply to MVPDs. That does not mean, however, that AT&T also is subject to the obligations in Title VI applicable to "cable operators" that provide "cable service" over "cable systems." Section 651 is designed to place *limits* on the regulation of video services provided by telecommunications carriers and to spare them from being treated as cable operators. It would be fundamentally antithetical to that clear policy objective to construe § 651 to restrict the manner in which telecommunications carriers may provide video service and to shoehorn them—regardless of the nature of their service or their network—into the regulatory classification of "cable operator."

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[5] *Id.* at 9.

[6] *See* Letter from James C. Smith, Senior Vice President, AT&T Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 04-36 (Jan. 12, 2006) ("AT&T Jan. 2006 Ex Parte"); Letter from James C. Smith, Senior Vice President, SBC to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 04-36 (Sept. 14, 2005)("AT&T Sept. 2005 Ex Parte").

NCTA also is incorrect that AT&T's IP video service is "a predominantly one-way transmission."[7] To the contrary, as AT&T has informed the Commission,[8] AT&T's IP video service is inherently a two-way service. Unlike cable service—in which all channels are transmitted to all subscribers simultaneously, with interaction occurring only between the subscriber and the set-top equipment—AT&T's switched IP service requires regular communications and interaction with the network itself. Thus, nothing is sent to the subscriber unless and until he or she communicates directly with the network by sending a request for specific programming—at which point the network instantly transmits only the requested material to that subscriber. In other words, the network—which is based on a client-server, switched, point-to-point architecture, rather than the point-to-multipoint, broadcast-like architecture of traditional cable networks—is designed to send programming to customers in much the same way the Internet does: information flows to the customer only once he or she has selected it.

AT&T's IP video service also is highly interactive. It includes features that permit customers to create individualized, customized viewing experiences. And subscribers will be able to combine programming with other features, including online content, different frames, different simultaneous program streams, and the voice and data services that will typically be provided in conjunction with IP video. In short, AT&T's video service is not a "cable service."

The conclusion that IP video is not cable service is not merely that of AT&T. Others also have highlighted the unique features of IP video that distinguish it from cable service:

> The IPTV network is an interactive, two-way, switched network with a server-based architecture designed to support a range of IP-based services, including video in an integrated environment. . . .[T]he architecture of the typical IPTV network is not one premised on the receipt of a signal at a local head-end for

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[7] *NCTA Comments* at 9.

[8] *See AT&T Jan. 2006 Ex Parte*; *AT&T Sept. 2005 Ex Parte.*

> distribution to a defined, closed community. Rather, IP-based networks are regional or nationwide networks that rely on a handful of regional servers to distribute bits of data, broken into IP packets, over a widely dispersed network.

Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection Act of 1992, *Comments of Microsoft Corporation* at 6, MB Docket No. 05-311 (Feb. 13, 2006).

> The IPTV service Cincinnati Bell intends to offer subscribers entails a switched, point-to-point transmission of video programming whereby video programming is stored on the network and delivered to a subscriber only when the subscriber selects a channel or program. Each time a subscriber selects a different channel or program, he or she electronically accesses new data off the server, in much the same way that he or she would access information over the Internet. In this way, each subscriber participates in a two-way dialogue with the network in order to select particular programming, which is then delivered to the individual subscriber. In contrast, incumbent cable service is a one-way, mass transmission whereby all video programming is simultaneously transmitted or broadcast to all subscribers. The subscriber selects a particular channel to view on the television from the totality of available programming resident in the subscriber's set-top equipment.
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> The greater two-way capability inherent to IPTV will enable subscribers to activate sorting programs to produce subsets of data, individually tailored to subscriber requests, and to activate delivery software to initiate distribution of programming to subscriber premises equipment. Subscribers can engage in off-premises data processing and they have "the capacity to communicate instructions or commands to software programs stored in facilities" off of their premises. IPTV, therefore, offers a degree of subscriber interaction and a capacity for two-way transmission that places it well beyond the meaning of the term "cable service."

Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection Act of 1992, *Comments of Cincinnati Bell, Inc.* at 7, 8-9 MB Docket No. 05-311 (Feb. 13, 2006).

> IPTV's greatest potential, though, comes in its ability to turn the viewing experience into something more than just passively watching entertainment emanating from a glowing box. . . . [B]ecause IPTV exists in the IP domain, it gives carriers the ability to offer services that blend video and data into a new form of entertainment that includes things like e-commerce, interactive gaming, and access to massive libraries of video content on demand.

Vince Vittori, *Capitalizing on IPTV Revenue*, Telephony (Oct. 2005).

> IPTV allows a service provider to "deliver a much more personalized entertainment experience to customers. The end result is compelling to content providers, advertisers, and consumers alike, and doesn't sacrifice good business economics. In particular, IPTV allows the service provider to deliver only those channels that the consumer wants at any given time – unlike traditional television broadcasting, where every channel is delivered to every home on the network. For the first time, it will be economical to deliver a college basketball game to everyone who wants to see it, for example, rather than just a particular local community. Of course, IPTV offers more benefits than this to the consumer. For one thing, it raises interactive television to a new level. While interactive TV has been around for more than a decade, it has offered little more than a choice of camera angles from which to view an event. IPTV gives the viewer access not to just an event but to the information related to it. You would have the ability to look at stats and live footage of one game, for example, while watching another. And because this is a secure data network, it gives you the ability to look up player-specific information right on the TV while watching a game. Likewise, you would be able to send photos or home movies from your PC right onto the TV, message your friends while you watch a show "together" across great distances, and receive called ID information on your TV.

Mike Quigley, *The Real Meaning of IPTV*, Business Week Online (May 20, 2005).

> Delivering content over Internet protocol has several advantages. One is interactivity—IPTV can be two-way, allowing the viewer to interact with the content to achieve iTV (interactive TV) features such as commenting on the show, choosing winning contestants, or buying merchandise worn by the actors. Another is convergence—using Internet protocol for many different types of content (including voice/telephone, data and video) allows it all to be delivered using the same "digital language," so to speak, over one basic channel, which tends to be much more efficient than using the old analog means still commonly used for media such as radio or telephone.

Christopher Harz, *IPTV: Boom or Bust*, Animation World Magazine (Jan. 27, 2006). Indeed, even the cable industry's own engineers understand that IP video is not cable service:

> Unlike cable, [cable engineering executives] noted, telco IPTV is switched digital by nature and already technically ready for video-on-demand service. They also said IPTV, unlike cable, doesn't depend on shared bandwidth access and doesn't require tuner-based set-top boxes. "IPTV is the future of television," said Nimrod BenNata, Harmonic vp-solutions: "It's a cool technology with unique capabilities."

Cable Technologists Fear Bell IPTV, Web Video, Peer-to-Peer, Communications Daily (Jan. 17, 2006). The consensus is clear: IP video service is not "cable service."

CONCLUSION

The question of whether IP video is a cable service under Title VI has important policy implications. In this proceeding, however, regardless of the regulatory status of IP video service, AT&T agrees that participation in the EAS is an importantly public policy objective. Accordingly, as a provider of IP video service, AT&T will participate in the EAS.

Respectfully Submitted,

/s/ Jim Lamoureux

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